

Summer 6-14-1989

Senate Meeting, June 14, 1989

Academic Senate
Illinois State University

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ACADEMIC SENATE MINUTES

June 14, 1989

Volume XX, No. 17

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Meetings of the Academic Senate are open to members of the University Community. Persons attending the meetings may participate in discussions with the consent of the Senate. Persons desiring to bring items to the attention of the Senate may do so by contacting any member of the Senate.

ACADEMIC SENATE MINUTES

(Not Approved by the Academic Senate)

June 14, 1989

Volume XX, No. 17

CALL TO ORDER

Chairperson Len Schmaltz called the meeting of the Academic Senate to order at 7:05 p.m.

ROLL CALL

Secretary John Freed called the roll, 21 members were present, which was not a quorum.

Chairperson Schmaltz explained that 21 members was not a quorum, but in the past the Senate had exercised "summer rules" which allowed the meeting to go on, and any legislation that was passed would be ratified at the July Meeting during approval of Minutes. In the past there had been a gentleman's agreement to not undertake any substantial issues during the summer meetings.

APPROVAL OF THE MINUTES OF MAY 3, 1989

XX-122 Motion to approve the Minutes of May 3, 1989 by Walker (Second, Hoffer) carried on a voice vote.

CHAIRPERSON'S REMARKS

No remarks.

VICE CHAIRPERSON'S REMARKS

No remarks.

STUDENT BODY PRESIDENT'S REMARKS

Excused absence.

ADMINISTRATOR'S REMARKS

President Wallace, Provost Strand, and Vice President for Business and Finance, Warren Harden, all had excused absences.

Vice President for Student Affairs, Neal Gamsky, had no remarks.

ACTION ITEMS

Election of Students to Athletic Council

Chairperson Schmaltz stated that when the faculty members were elected to the Athletic Council, the names had been forwarded to the President, who wrote back a letter appointing the same five people to the Athletic Council. I sent them a letter saying they had been elected to the Athletic Council, and the President sent them a letter saying they had been appointed to the Athletic Council. There is little doubt in their minds that they are now members of the Athletic Council. The President in his letter to me, which has been forwarded to the Rules Committee basically refused to approve the changes to the Athletic Council Bylaws.

Senator Freed added that the President was suspending judgment at this point. He was not disapproving them at this time, but waiting for a decision from the Blue Ribbon Committee on Athletics.

Chairperson Schmaltz said that he did not know how the Senate wished to proceed.

Senator Zeidenstein asked if someone could read the exact wording in the President's letter. The wording of the Executive Committee Minutes read: "Withheld approval of Item 1 and Item 5 Athletic Council Bylaws and Athletic Tuition Waiver Resolution." The exact wording might clear this up.

Senator Newby did not have a copy of the letter. Senator Freed stated that there were two separate communications. One letter stated that he was withholding approval of the Athletic Council Bylaws and the Athletic Tuition Waiver Resolution. A second letter proceeded to approve our nominations, but that should not be interpreted as approval of our revisions of the Athletic Council Bylaws.

Chairperson Schmaltz said that those communications would be sent to the entire Senate.

Senator Walker said that the President withheld approval of Items 1 and 5. One was the Athletic Council Bylaws, and five was the Resolution. He had a follow-up letter saying why he was withholding approval. Those are the two letters. He phrased it such that he was withholding approval at this time. He approved the other items, but withheld approval.

Senator Ritt said that the matter before the Senate was a question of the action item. I do not know what the status of the Resolution is, or what binding a Sense of the Senate Resolution has as far as University policy is concerned. However, it is my very firm belief that the Senate makes

its Bylaws. The President is welcome to participate in the discussion and in the voting on that and that is the extent of his role in respect to Senate Bylaws -- to participate as a member of the Senate. There is no requirement that the President approve of a properly passed Bylaw of the Senate in order for it to become a Bylaw of the Senate. Therefore, I would ask that the Chair rule that the Bylaw Revision as passed by the Senate is a Bylaw of the Senate and the Senate can proceed with its business.

Chairperson Schmaltz said that he had written the faculty members elected to the Athletic Council to that effect. He had operated under the revised Athletic Council Bylaws which stated in Section I, D.: "Students shall be nominated and elected by the Senate to one-year terms each spring."

Senator Ritt said if that was what the Bylaws said, we should go ahead and elect them.

Senator Liedtke supported Senator Ritt. It did not seem to her that there was any confusion by the Senate as to what the Bylaws state or what we have to do, but rather the President was confused as to what his power entailed.

Senator Tuttle asked what the Bylaws stated in terms of numbers. Chairperson Schmaltz read from the Bylaws: The Senate is to elect one male athlete, one female athlete, one male non-athlete, and one female non-athlete. He pointed out to Senator Ritt that there was not a quorum present this evening.

Senator Ritt said that if the Senate proceeded according to custom and the ratification of the election would depend upon approval at the next meeting, we should go ahead with it.

Senator Zeidenstein stated that it was the Blue Book Description of the Athletic Council that was being referred to, there is a difference. The Blue Book Description takes only a simple majority to revise.

- XX-123 Senator Rendleman moved the nomination of Ray Kralis as male athlete on the council (Second, Hoffer).
- XX-124 Ms. Hoffer moved the nomination of Jeff Clements as male athlete on the council (Second, Steubinger).
- XX-125 Mr. Rendleman moved the nomination of Stacey Anderson as female athlete on the council (Second, Steubinger).
- XX-126 Ms. Hoffer nominated Isabella Kowalewski for female athlete on the council (Second, Steubinger).
- XX-127 Mr. Rendleman moved the nomination of Scott Andrew as male non-athlete on the council (Second, Steubinger).

- XX-128 Ms. Hoffer nominated Chris Kirby as male non-athlete on the council (Second, Steubinger).
- XX-129 Mr. Rendleman moved the nomination of Shelly Warner as female non-athlete on the council (Second, Steubinger).
- XX-130 Ms. Hoffer moved the nomination of Susana Magana as female non-athlete on the council (Second, Steubinger).

Students elected to the Athletic Council:

Ray Kralis, male athlete
Isabella Kowalewski, female athlete
Scott Andrew, male non-athlete
Shelly Warner, female non-athlete

2. Approval of IBHE Faculty Advisory Committee Representatives

Senator Tuttle, as current representative to the IBHE Faculty Advisory Committee, explained the functions of the committee. He had served in this capacity for four years. This is an advisory committee to the Illinois Board of Higher Education. It is a statewide committee that does not embody specific representation from any particular campus. The person on this committee is not there in any legislative representation of ISU. The representative is there to advise, provide insight, direction, suggestions to the IBHE in every aspect of higher education in the State of Illinois from the role of proprietary schools to funding for graduate programs and salaries and positions of the IBHE on everything you can think of. It is a committee that is composed of representatives from all segments of higher education. Public institutions have a guarantee of mandatory membership on this committee. Community colleges have a revolving ratio of members on it. Private schools in the state follow a formula which allows five representatives each year. One of the things that happens in serving on this committee is that there are occasionally moments to make some impact on the thinking of the IBHE staff. Not necessarily on the Board itself, but on the staff. This is useful. There is also an opportunity to be aware of the trends that the IBHE is engaging in. Sometimes to be aware of those trends earlier than the administration on campus. So, I think that we need to have a closer relationship in a dialogue sense between the representative to the Faculty Advisory Committee from our campus than the Senate has had in the past. My predecessors were Hibbert Roberts and Normand Madore. On some campuses in the state, for example both campuses of the University of Illinois, the representative reports monthly to the Academic Senate extensively, and engages in substantial dialogue with the Academic Senate. Some of the private schools don't have an academic senate, but they have a rough equivalent of it, and the same kind of thing occurs there. I came to the Academic Senate three years ago and asked to make a report, which I did.

My reading of the response was that no one was really interested in what the IBHE was doing. Therefore, I did not make the effort to come back unless I was asked to do so, and I was not. I think our representative should have an expectation of being invited to make a report to the Academic Senate during periods of time that are important -- December, February, and late April. I think the nomination of Ed Hines is an excellent one. The IBHE has its set data bases which are oftentimes at variance with the the ISU/Hines database. It might be interesting to feel that out. I would like to go on record asking the Executive Committee to make a specific request that the representative to the IBHE report to the Academic Senate during those three months and at any other time that the representative would see fit to do so. There have been a number of issues on this campus where there has been a considerable amount of uncertainty about what is going on that I could have shed some light on where the IBHE was going. In a couple of situations ISU was going in the opposite direction.

Chairperson Schmaltz stated that William Linneman had served as alternate under Dr. Tuttle and had been asked if he would like to serve as representative. However, he indicated that he would not have the time to serve as representative. Because of Professor Hines' expertise in the general area, the Executive Committee thought it would be good to ask him. He has been contacted and has agreed to serve.

XX-131 Motion by Tuttle (Second, Newby) to appoint Ed Hines, EAF, as representative to the IBHE Faculty Advisory Committee, with William Linneman, English, serving as alternate carried on a voice vote.

3. Election of A Representative to the Facilities Naming Comm.

Chairperson Schmaltz explained that this committee was not a Senate committee. However, in the past the Senate had placed a faculty member who was also an Academic Senator on this committee. Our previous representative was Sen. Larry Belknap. Since he is no longer a senator, we need a faculty senator who would agree to be a member of the Facilities Naming Committee. Guidelines for this selection are not spelled out anywhere. Are there nominations from the floor.

XX-132 Senator Rendleman nominated Len Schmaltz for this position (Second, Newby). Motion carried on a voice vote.

COMMUNICATIONS

Chairperson Schmaltz pointed out that a copy of a letter to the editor of the Pantagraph from Provost Strand had been distributed to Senators this evening for information.

Senator Walker asked if the Rules Committee would be coming back to the full Senate about the President's approval of Senate action. Perhaps the Parliamentarian could rule whether this sort of action is correct or incorrect.

Parliamentarian Ira Cohen said that the Chair rules, the Parliamentarian only offers opinion. There is a very specific Bylaw concerning committees.

Chairperson Schmaltz said that the Rules Committee should consider the issue and make a recommendation.

Senator Walker said that this would mean the President had the power to disapprove of any Senate action, even the election of officers.

Chairperson Schmaltz stated that he had been Chair for five years, and routinely his predecessors had sent a letter of transmittal following Senate meetings advising the President of the actions taken.

Senator Walker asked what the response of past presidents had been.

Chairperson Schmaltz said that he had routinely received a letter back from President Watkins which read "I approve of the Senate actions." Basically, it was a summary letter of what actions the Senate had taken, rather than asking for approval. The only recollection I have of any disapproval was the policy for evaluation of administrators.

The Parliamentarian said that the ISU Constitution provides that the Senate determines policy and advises the President on its implementation. So, in this one area, the President has the leeway to act, he can say "Thank you, but no thank you" in accepting the Senate's advice on the implementation of policy. The Constitution states that the Senate determines Policy. The President has the equivalent of a veto, in that area of the Constitution where it says: (Article 5) "The Senate determines policy and advises the President on its implementation." That's the area where you clearly have Presidential freedom to choose or not choose. Those parts of the Constitution where the Senate is determinative, it reads "determines" -- and there is no vitiating that language.

Senator Walker said that approval had been withheld on two items: Item 1 and Item 5. Item 5 was the Resolution on Athletics -- the President could do whatever he wanted to do with that Resolution. The Parliamentarian was saying that in the case of the Bylaws, the Senate determines policy, so the President cannot approve or disapprove of them.

Parliamentarian Cohen said that Bylaw 2.1 Creation of Committees states that changing of committees is specifically a Senate function, especially in the area where the Senate is determinative, which in intercollegiate policy it is. The Constitution in the list of Senate functions states this.

Senator Walker asked if the Rules Committee would come back and say either the President had the right to approve or disapprove this. What is the situation?

Chairperson Schmaltz said that would be up to the Rules Committee. I am acting as if, in terms of the Bylaws Change (Blue Book Description), we elect the members to the Athletic Council.

Senator Walker said that the Senate was running under the knowledge that the President has deferred approval. Chairperson Schmaltz said an impasse could occur if the President keeps appointing people to the Athletic Council, and the Senate keeps electing them, the Council could become rather large. It was nice that the President appointed the same faculty members that the Senate elected, but at a future point this could become an impasse.

Senator Walker asked what the correct stance should be.

Parliamentarian Cohen said that the Chair sends the formal notice of appointment of members of committees. Chairperson Schmaltz said that the Senate elects, and he sent the letter to the President advising who had been elected.

Senator Walker asked if the President "appoints" these persons or just acknowledges acceptance of them. It was stated that Presidents in the past had always approved actions of the Senate.

Parliamentarian Cohen said that nine years ago when he was Chair of the Senate, he used to send a "For Your Information" letter to the President.

Chairperson Schmaltz said that his predecessor as Chair of the Senate was Laura Gowdy. He had been informed by her the day after his first Senate meeting as Chair that he was to send a "transmittal" letter to President Watkins in which he would list the actions of the Academic Senate. That is exactly what he did. It is not a copy of the minutes, merely a letter stating what action the Senate took. Within two or three days we received a letter back saying that the President "approved the actions of the Academic Senate". I did not ask for his approval, but I got it. I did not realize that would cause a constitutional crisis.

Guest Chris Eisele read from the Constitution under Functions of the Senate (Article 5, Section E): 15. Participate in selecting the President of the University, the principal officers of the administration, and membership of appointive committees.

Parliamentarian Cohen said that this was not the appropriate section of the Constitution. What we are looking for is V.1.E. which reads: "Within the limits established by legislative statute and the authority delegated thereby to the Board of Higher Education and the Board of Regents, the Academic Senate shall be the primary body to determine educational policy of the University and to advise the President on its implementation."

Senator Walker said he was concerned about what we were doing.

Senator Zeidenstein said the place to look was in the Senate Bylaws, Article II, Section 2.1, the section dealing with Creation of Committees, near the bottom reads: "No provision of this section, or any other section, of these Bylaws shall be construed to preclude administrative officers from creating administrative committees or other administrative bodies, assigning to them such duties and powers as they desire, and appointing members of the ISU community to serve on them. Provided, administrative committees or bodies shall be subject to the procedures set forth in these Bylaws." Either the Athletic Council is a Senate Committee, for which the Senate elects members; or it is an Administrative Committee for which he can select members. It should be either one or the other.

Senator Rendleman asked the Parliamentarian about his interpretation of Sen. Zeidenstein's comments. How should we interpret the Athletic Council. Is it a committee appointed by the President, or is it a Senate Committee?

Parliamentarian Cohen said that obviously the Senate created the committee and recently changed the Bylaws of the committee. Determining intercollegiate policy is one of the functions of this body.

Senator Rendleman asked if what the President has to say, regardless of whether he appoints the same members or not, have any effect on this committee?

Parliamentarian Cohen said that the Senate in the past had revised the election procedures for this committee at the request of the President because of the threat of NCAA sanctions in 1973. This is clearly a committee of the Senate, and in the past all changes in the Athletic Council have come through the Senate.

Senator Rendleman asked what role this committee had in reporting Athletics of ISU to the President.

Parliamentarian Cohen said that the Senate set up a policy, and a committee was created. The Athletic Council deals with complex issues, and it functions in an unusual area, and has to

adhere to NCAA Regulations. Referring this issue to the Rules Committee for examination on questions of structure makes the most sense. The Athletic Council is clearly a committee of the Senate, and in the past all changes have come through the Senate.

Senator Rendleman said that being examined by only the Rules Committee was awfully one-sided. If this comes into other areas, such as the Redbird Club, etc., isn't it one-sided on the part of the Senate.

Parliamentarian Cohen said no, since the Senate determines policy.

Chairperson Schmaltz said the Rules Committee would hopefully explore the entire issue and then come back to the Senate with some sort of a recommendation which the Chair will rule on. The Senate could agree, sustain, or over-rule the Chair. We need some input from the Rules Committee. There are two sides to this issue.

Senator Walker asked if the Rules Committee would rule on this.

Chairperson Schmaltz said they will explore the issue. We are following the Senate committee description.

Senator Ritt said that as long as the Senate goes along regarding the rules of appointment to the Athletic Council that have been passed by the Senate as being the rules, there is nothing for anyone to say until a committee says that they are not the rules. As long as we are acting as though the Senate has the right to pass certain legislation, and that that legislation becomes effective, then it really doesn't matter whether we are comfortable with that idea.

Senator Freed said he had raised the issue at the Executive Committee meeting. Perhaps the issue is not just the Athletic Council. This brought the issue to a head. Our receiving from the President a list of things he approves. Apparently this is past precedent. The Athletic Council is perhaps a fuzzy issue for reasons that have been made clear. There are other issues that the President approves of which I am not quite sure fall under his jurisdiction. The most obvious example is that he approves the election of our own officers. I find it very difficult to believe that any parliamentary body requires the approval of an outside authority on the election of its own officers. Certainly the legislature of the State of Illinois does not need the Governor's approval when it selects its own speaker. The real issue is not just the Athletic Council. That is just the specific issue that brought the matter to a head. The issue that the Rules Committee needs to come to grips with is what are the actions that the Senate takes that require Presidential approval, and what actions do not. If the President has the power to approve the election of our officers, then he probably

has the power to approve the Athletic Council bylaws. Presidential approval of our own officers means also that the President has the power to disapprove our own officers. If he can approve the election of our officers, then he can also reject election of our own officers. That is the issue: What actions of the Senate does the President have the power to approve, and what actions does he not have the power to approve. If he does not have the power to approve it, then we should cease to ask for his approval of things that do not fall within his jurisdiction.

Chairperson Schmaltz stated that the transmittal letter does not "ask" for his approval -- he simply gives it.

Senator Walker asked if that was the charge to the Rules Committee. Senator Freed said that the Executive Committee had expressed concern over the broad spectrum of issues, not just the Athletic Council.

Senator Newby, Chair of the Rules Committee, did not have the letter before her.

Chairperson Schmaltz said that copies of this correspondence would be sent to Senators. The entire matter was being referred to the Rules Committee.

Senator Zeidenstein stated that he needed a copy of the revised Athletic Council Bylaws as passed by the Senate. Chairperson Schmaltz said that this Blue Book description would be circulated to Senators.

Senator Zeidenstein said that one of the amendments asked that the Athletic Council should submit their recommended budget to the Senate Budget Committee and the Student Affairs Committee. There are two internal committees of the Senate that should receive their budget. Has the budget been sent to them?

COMMITTEE REPORTS

ACADEMIC AFFAIRS COMMITTEE - Senator Tuttle said the committee had not met. However, they just received from Academic Standards a revised Withdrawal Policy, and would be meeting to review that.

ADMINISTRATIVE AFFAIRS COMMITTEE - No report.

BUDGET COMMITTEE - Senator Walker reported that his committee had recessed for the summer.

FACULTY AFFAIRS COMMITTEE - Senator Ritt said his committee had met and would meet again this evening concerning the dismissal policy.

RULES COMMITTEE - Senator Newby said that her committee had attempted to meet, but many of the members were out of town for the summer. She called a meeting following Senate adjournment for the three members present tonight.

STUDENT AFFAIRS COMMITTEE - No report.

MOTION TO ADJOURN

XX-133 Senator Newby moved to adjourn (Second, Ritt). Meeting of the Academic Senate adjourned at 8:11 p.m.

FOR THE ACADEMIC SENATE

JOHN B. FREED, SECRETARY

Date: 6/14/89 **Volume No.** XX **No.** 17

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